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EXAMINER	
COHEN, AMY R	

ART UNIT	PAPER NUMBER
2859	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/612,035	LEVINE, STEVEN R.	
	Examiner	Art Unit	
	Amy R. Cohen	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-64* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-64* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 April 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 7-9, 24, 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwandt (U. S. Patent No. 5,063,679).

Regarding claims 1, 2, 7-9: Schwandt teaches a base (32) for a light generating device or a leveling device, comprising: a first surface (32a) that comprises a connection structure (connection structure is 50 and 52) to removably receive and mount either a light generating device or a leveling device thereto (Col 4, line 58-Col 5, line 20); and a second surface (32b) comprising a nonmechanical attachment structure (63), wherein a portion of the connection structure is pivotably movable relative to the first surface (Col 4, line 58-Col 5, line 20).

Schwandt teaches the base wherein the nonmechanical attachment structure comprises an adhesive (Col 5, lines 35-39).

Schwandt teaches the base wherein the connection structure is selected from the group consisting of a magnet, a magnetically attractive material, a hook fastener, a loop fastener, a tab, a slot, a flat surface, and a latch (Col 4, line 58-Col 5, line 20).

Schwandt teaches the base wherein the connection structure further comprises a recess (52).

Schwandt teaches the base wherein the adhesive protrudes from the second surface (Fig. 11).

Regarding claims 24, 26-29: Schwandt teaches a leveling device (10) with a base (32), comprising: the base (32) comprising: a first surface (32a) that comprises a connection structure (50, 52); and a second surface (32b) comprising a nonmechanical attachment structure (54); and the leveling device removably mounted to the first surface via the connection structure (Col 4, line 58-Col 5, line 20), wherein a portion of the connection structure is pivotally movable relative to the first surface (Col 4, line 58-Col 5, line 20).

Schwandt teaches the device wherein the nonmechanical attachment structure is an adhesive (63).

Schwandt teaches the base wherein the connection structure is selected from the group consisting of a magnet, a magnetically attractive material, a hook fastener, a loop fastener, a tab, a slot, a flat surface, and a latch (Col 4, line 58-Col 5, line 20).

Schwandt teaches the device wherein the leveling device comprises a latch (50) that engages the connection structure.

Schwandt teaches the device wherein the connection structure comprises a recess (52).

3. Claims 1, 3, 4, 7, 8, 13, 23, 24, 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Wedemayer (U. S. Patent No. 5,575,073).

Regarding claims 1, 3, 4, 7, 8: Von Wedemayer teaches a base (10) for a light generating device (20) or a leveling device (20), comprising: a first surface (top of 1) that comprises a connection structure (9, 11, 12, 26) to removably receive and mount either a light generating device (20) or a leveling device (20) thereto (Figs. 1 and 3); and a second surface (bottom of 2) comprising a nonmechanical attachment structure (6, Col 3, lines 11-14), wherein a portion of the connection structure is pivotably movable relative to the first surface (Col 3, 39-64).

Von Wedemayer teaches the base comprising an outer portion (outside surfaces/perimeter of 1) that includes a bottom surface (Fig. 1) and an inner portion (3) movably mounted to the outer portion (Col 3, lines 6-10).

Von Wedemayer teaches the base comprising a retainer (5) and a fastener (4) for joining the outer and inner portions (Col 3, lines 1-5).

Von Wedemayer teaches the base wherein the connection structure is selected from the group consisting of a magnet (Col 3, lines 15-17), a magnetically attractive material (Col 3, lines 15-17), a hook fastener, a loop fastener, a tab, a slot a flat surface (Col 3, lines 15-17), and a latch.

Von Wedemayer teaches the base wherein the connection structure comprises a recess (Fig. 1, where pivot pin 9, 26 passes, Fig. 3, depression 11).

Regarding claims 13 and 23: Von Wedemayer teaches a light generating device (20) with a base (10), comprising: a base (10) comprising: a first surface (top of 1) that comprises a connection structure (9, 11, 12, 26); and a second surface (bottom of 2) comprising a nonmechanical attachment structure (6, Col 3, lines 11-14); and a light generating device (20) removably mounted to the first surface via the connection structure (Figs. 1 and 3), wherein a portion of the connection structure is pivotably movable relative to the first surface (Col 3, lines 39-64).

Von Wedemayer teaches the device wherein the connection structure comprises a magnet or a material that is magnetically attractive to a magnet (Col 3, lines 51-55).

Regarding claims 24 and 30: Von Wedemayer teaches a leveling device (20) with a base (10), comprising: the base (10) comprising: a first surface (top of 1) that comprises a connection structure (9, 11, 12, 26); and a second surface (bottom of 2) comprising a nonmechanical attachment structure (6, Col 3, lines 11-14); and the leveling device removably mounted to the

first surface via the connection structure (Col 3, lines 15-64), wherein a portion of the connection structure is pivotably movable relative to the first surface (Col 3, lines 39-64).

Von Wedemayer teaches the device wherein the connection structure comprises a magnet or a material that is magnetically attractive to a magnet (Col 3, lines 51-55).

Regarding claims 31-34: Von Wedemayer teaches a movable base (10) for a light generating device (20) or a leveling device (20), comprising: a first portion (top of 1) that comprises a connection structure (9, 11, 12, 26) to removably receive and mount either a light generating device (20) or a leveling device (20) thereto; and a second portion (2) movably mounted to the first portion (movable via screw 4), wherein a portion of the connection structure is pivotably movable (Col 3, lines 39-64).

Von Wedemayer teaches the base wherein the second portion is swivelably mounted to the first portion (Col 3, lines 1-10, part 1 can swivel with respect to part 2 via screw 4).

Von Wedemayer teaches the base wherein the connection structure comprises a recess (11).

Von Wedemayer teaches the base wherein the connection structure comprises a material that is magnetically attracted to the light generating device or leveling device being mounted to the first portion (Col 3, lines 51-55).

4. Claims 1, 3-6, 13, 14, 20, 24, 31-33, 36, 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Jan (U. S. Patent No. 6,481,686).

Regarding claims 1, 3-6: Jan teaches a base (Fig. 1) for a light generating device or a leveling device, comprising: a first surface (20) that comprises a connection structure (40) to removably receive and mount either a light generating device (600) or a leveling device (600, 700) thereto; and a second surface (10) comprising a nonmechanical attachment structure

(bottom surface of 10), wherein a portion of the connection structure is pivotally movable relative to the first surface (Col 2, lines 28-51).

Jan teaches the base comprising an outer portion that includes a bottom surface (Fig. 2), and an inner portion (47) movably mounted to the outer portion (Col 2, lines 28-51).

Jan teaches the base comprising a retainer (Fig. 2) and a fastener (29) for joining the outer and inner portions (Fig. 2).

Jan teaches the base wherein the outer portion comprises a curved inner surface (21), and the inner portion comprises a curved outer surface that receives the connection structure (Fig. 2).

Jan teaches the base wherein the curved outer surface is swivelably mounted to the curved inner surface (Col 2, lines 28-51).

Regarding claims 13, 14, 20: Jan teaches a light generating device (600, 700) with a base (Fig. 1), comprising: a base (Fig. 1) comprising: a first surface (20) that comprises a connection structure (47, 40); and a second surface (10) comprising a nonmechanical attachment structure (bottom surface of 10); and a light generating device (600, 700) removably mounted to the first surface via the connection structure, wherein a portion of the connection structure is pivotably movable relative to the first surface (Col 2, lines 28-51).

Jan teaches the device wherein the light generating device generates a laser beam (Col 2, lines 52-65).

Jan teaches the device wherein the connection structure is selected from the group consisting of a hook fastener, a loop fastener, a tab, a slot, a flat surface, and a latch, and wherein the light generating device comprises a structure mating with the connection structure (Figs. 1, 3, 4, connection structure includes 43 and the shape of the top of 40, the laser generating device (600, 700) has a mating shape as seen in the figures).

Regarding claim 24: Jan teaches a leveling device (600, 700) with a base (Fig. 1), comprising: the base (Fig. 1) comprising: a first surface (20) that comprises a connection structure (47, 40); and a second surface (10) comprising a nonmechanical attachment structure (bottom of 10); and the leveling device (600, 700) removably mounted to the first surface via the connection structure (Col 2, lines 28-51), wherein a portion of the connection structure is pivotably movable relative to the first surface (Col 2, lines 28-51).

Regarding claim 31-33, 35, 36, 41: Jan teaches a movable base (Fig. 1) for a light generating device or a leveling device, comprising: a first portion (20) that comprises a connection structure (40) to removably receive and mount either a light generating device (600, 700) or a leveling device (700) thereto (Figs. 1-4); and a second portion (10) movably mounted to the first portion (Col 2, lines 16-51), wherein a portion of the connection structure is pivotably movable (Col 2, lines 28-51).

Jan teaches the base wherein the second portion is swivelably mounted to the first portion (Col 2, lines 16-26).

Jan teaches the base wherein the connection structure comprises a recess (Fig. 2, there are many recesses in 40).

Jan teaches the base wherein the first portion comprises a curved inner surface (at 21, where 47 is placed) and the second portion comprises a curved outer surface that receives the connection structure (10 is itself curved on the outer surface and it receives all of the connection structure 40 on its upper surface).

Jan teaches the base comprising a retainer (47) and a fastener (29) for joining the first and second portions (Col 2, lines 28-51).

Jan teaches the base wherein the connection structure is selected from the group consisting of a magnet, a magnetically attractive material, a hook fastener, a loop fastener, a tab, a slot (Figs. 1 and 2), a flat surface (Figs. 1 and 2), a recess (Figs. 1 and 2), and a latch.

5. Claims 13, 18, 24, 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Boys (U. S. Patent No. 6,810,598).

Regarding claims 13 and 18: Boys teaches a light generating device with a base (Fig. 6), comprising: a base (605) comprising: a first surface (top of 605a) comprising a connection structure (606, 560, 563); and a second surface (bottom of 605b) comprising a nonmechanical attachment structure (the flat surface of the bottom of 605b is the attachment structure); and a light generating device (506) removably mounted to the first surface via the connection structure (removable via 563 and 606), wherein a portion of the connection structure is pivotably movable relative to the first surface (pivots because 560 pivots, Figs. 7A,B).

Boys teaches the device wherein the light generating device comprises a retractable pin (552) and an actuator for the pin (550) (Col 14, line 61-Col 15, line 7).

Regarding claims 24 and 25: Boys teaches a leveling device with a base (Fig. 6), comprising: a base (605) comprising: a first surface (top of 605a) comprising a connection structure (606, 560, 563); and a second surface (bottom of 605b) comprising a nonmechanical attachment structure (the flat surface of the bottom of 605b is the attachment structure); and the leveling device (506) removably mounted to the first surface via the connection structure (removable via 563 and 606), wherein a portion of the connection structure is pivotably movable relative to the first surface (pivots because 560 pivots, Figs. 7A,B).

Boys teaches the device wherein the leveling device comprises a retractable pin (552) and an actuator for the pin (550) (Col 14, line 61-Col 15, line 7).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwandt in view of Kreckel et al. (U. S. Patent No. 5,516,581).

Schwandt discloses the base as described above in paragraph 2 and wherein the adhesive is removable (Col 5, lines 21-39).

Schwandt does not disclose the base wherein the adhesive comprises a liner; wherein the adhesive is a removable pressure sensitive adhesive comprising; an inner portion attached to the second surface and an outer portion releasably attached to the inner portion; comprising a second adhesive.

Kreckel et al. discloses an adhesive (30) comprises a liner (38); wherein the adhesive is a removable pressure sensitive adhesive (Col 3, lines 35-61) comprising; an inner portion (34) attached to the second surface and an outer portion (36) releasably attached to the inner portion; comprising a second adhesive (34, 36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Schwandt to specify a removable pressure sensitive adhesive, as taught by Kreckel et al., so that the base could be releasably secured to a surface without causing damage to the surface while maintaining a high adhesive strength (Kreckel et al., Col 3, lines 35-61).

8. Claims 13, 19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwandt in view of Green (U. S. Patent No. 5,531,031).

Regarding claims 13, 19, 21, 22: Schwandt discloses a level device with a base (10), comprising: a base (32) comprising: a first surface (32a) that comprises a connection structure (52); and a second surface (32b) comprising a nonmechanical attachment structure (63); and a level device removably mounted to the first surface via the connection structure (removable by 50, 52), wherein a portion of the connection structure is pivotally movable relative to the first surface (Col 4, lines 58-67).

Schwandt discloses the device wherein the nonmechanical attachment structure is an adhesive (63).

Schwandt discloses the device wherein the level device comprises a latch (50) that engages the connection structure.

Schwandt discloses the device wherein the connection structure comprises a latch (50, 52).

Schwandt does not disclose the device wherein the level device is a laser generating device.

Green discloses a level device wherein the level device is a laser generating device (38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the level device and base of Schwandt to be a laser generating device, as taught by Green, so that a level plane could be projected from the device and base, enabling a user to locate a level object on another surface.

9. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jan in view of Goodrich et al. (U. S. Patent No. 6,502,319).

Jan discloses the device as described above in paragraph 4.

Jan does not disclose the device wherein the light generating device generates a laser beam with an asymmetric intensity; wherein the light generating device generates light in the

shape of a fan; wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle.

Goodrich et al. discloses a light generating device (22) wherein the light generating device generates a laser beam (26) with an asymmetric intensity (26, Figs. 8-11); wherein the light generating device generates light in the shape of a fan (26, Figs. 8-11); wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle (Figs. 8-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Jan to have the light generating device emit a laser beam in the shape of a fan, as taught by Goodrich et al., in order to produce a highly visible continuous line focused on a long axis perpendicular to the surface on which the device is placed (Goodrich et al., Col 2, lines 40-62).

10. Claims 31, 37-40, 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwandt in view of Patton (U. S. Patent No. 1,657,546).

Regarding claims 31, 37-40: Schwandt discloses a movable base (10, 28) for a light generating device or a leveling device (16), comprising: a first portion (30) that comprises a connection structure (12, 34) to movably receive and mount either a light generating device or a leveling device thereto (Fig. 1); and a second portion (32) movably mounted to the first portion (Col 4, lines 58-67), wherein the a portion of the connection structure is pivotally movable (Col 4, lines 3-13).

Schwandt discloses the base wherein the second portion includes an attachment structure (63) for attaching the base to a surface, the attachment structure comprising an adhesive (63); wherein the adhesive is a removable pressure sensitive adhesive (Col 5, lines 20-39); wherein the adhesive protrudes from the second portion (Fig. 11); wherein the adhesive comprises a liner (the liner is the bottom portion of 32).

Schwandt does not disclose the base wherein the leveling device is removably attached to the connection structure.

Patton discloses a base for a leveling device wherein the leveling device is removably attached to the connection structure (Col 2, line 101-Col 3, line 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Schwandt to have the leveling device be removably mounted, as taught by Patton, so that it could be removed for safety in handling and could be easily replaced if broken (Patton, Col 2, line 101-Col 3, line 14).

Regarding claims 45-47: Schwandt discloses a method of aligning objects on a surface (Col 1, lines 35-41), the method comprising: inserting a leveling device (16) into a movable base, the movable base comprising an outer portion (30) that comprises a connection structure (12, 34) to movably receive and mount the leveling device thereto and an inner portion (32) that comprises an attachment structure (52), the inner portion movably mounted to the outer portion (Col 4, lines 58-67), wherein a portion of the connection structure is pivotable movable (Col 4, lines 3-13); attaching the leveling device and movable base to a surface with an adhesive (Col 5, lines 20-39); orienting the leveling device in at least one plane using at least one bubble level (20) and a movable feature (12 is movable) on the leveling device (Col 1, lines 35-41 and Col 4, lines 3-13); and aligning at least one object on the surface (Col 1, lines 35-41); wherein the adhesive is a removable pressure sensitive adhesive; comprising removing the leveling device and base from the surface and discarding the adhesive (Col 5, lines 20-39, once finished with the adhesive, it can be removed so that the base does not adhere to other surfaces).

Schwandt does not disclose the method wherein the leveling device is removably attached to the connection structure.

Patton discloses a base for a leveling device wherein the leveling device is removably attached to the connection structure (Col 2, line 101-Col 3, line 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Schwandt to have the leveling device be removably mounted, as taught by Patton, so that it could be removed for safety in handling and could be easily replaced if broken (Patton, Col 2, line 101-Col 3, line 14)

11. Claims 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Schwandt.

Green discloses a method of aligning objects on a surface (Col 1, lines 33-67), the method comprising: inserting a light generating device (44) into a movable base (12), the movable base comprising an outer portion (12) that comprises a connection structure (curvature of 12 which houses 44) to removably receive and mount the light generating device thereto and an inner portion (28) that comprises an attachment structure (attachment structure is the curvature of the body 28), the inner portion movably mounted to the outer portion, wherein a portion of the connection structure is pivotably movable (44 is pivotably movable); attaching the light generating device and movable base to a surface with a magnet (Col 1, lines 33-67); orienting the light generating device in at least one plane using at least one bubble level (30) and a movable feature (50, 52) on the light generating device (Col 3, lines 26-57); and aligning at least one object on the surface (Col 1, lines 33-67).

Green does not disclose the method wherein the light generating device and movable base are attached by adhesive; wherein the adhesive is a removable pressure sensitive adhesive; comprising removing the light generating device and the base from the surface and discarding the adhesive.

Schwandt discloses a method wherein the leveling device and movable base are attached by adhesive (Col 5, lines 20-39); wherein the adhesive is a removable pressure sensitive adhesive (Col 5, lines 20-39); comprising removing the leveling device and base from the surface and discarding the adhesive (Col 5, lines 20-39, once finished with the adhesive, it can be removed so that the base does not adhere to other surfaces)

12. Claims 48, 49, 55, 57, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Wedemayer in view of Hall et al. (U. S. Patent No. 4,663,856).

Von Wedemayer discloses a kit for a light generating device (20) with a base (10), comprising: a base (10) comprising: a first surface (top of 1) that comprises a connection structure (9, 11, 12, 26), wherein a portion of the connection structure is pivotably movable relative to the first surface (Col 3, lines 39-64); and a second surface (bottom of 2) comprising a nonmechanical attachment structure (6, Col 3, lines 11-14); and a light generating device (20, 27) removably mounted to the first surface via the connection structure (Figs. 1 and 3).

Von Wedemayer teaches the kit wherein the light generating device (27) generates a laser beam (28).

Von Wedemayer teaches the kit wherein the connection structure is selected from the group consisting of a hook fastener, a loop fastener, a tab, a slot, a flat surface (Col 3, lines 51-55), and a latch.

Von Wedemayer teaches the kit wherein the connection structure comprises a magnet (12) or a material that is magnetically attractive to a magnet (Col 3, lines 51-55).

Von Wedemayer does not disclose the kit comprising a volume of space wherein the base is positioned within the volume of space, and the light generating device is positioned within the volume of space so as to be unattached to the base.

Hall et al. discloses a kit (10) comprising a volume of space (11) wherein the base (12, 14) is positioned within the volume of space (Fig. 1), and the light generating device (12) is positioned within the volume of space so as to be unattached to the base (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Von Wedemayer to comprise a volume of space, as taught by Hall et al., so that the light generating device and the base could easily be transported from one workspace to another without the possibility of losing or misplacing pieces of the kit.

13. Claims 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Wedemayer and Hall et al. as applied to claims 48, 49, 55, 57, 58 above, and further in view of Goodrich et al.

Von Wedemayer and Hall et al. disclose the kit as described above in paragraph 12.

Von Wedemayer and Hall et al. does not disclose the device wherein the light generating device generates a laser beam with an asymmetric intensity; wherein the light generating device generates light in the shape of a fan; wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle.

Goodrich et al. discloses a light generating device (22) wherein the light generating device generates a laser beam (26) with an asymmetric intensity (26, Figs. 8-11); wherein the light generating device generates light in the shape of a fan (26, Figs. 8-11); wherein the fan lies substantially within a second plane that intersects the first planar surface at an angle (Figs. 8-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Von Wedemayer and Hall et al. to have the light generating device emit a laser beam in the shape of a fan, as taught by Goodrich et al., in order to produce a highly visible continuous line focused on a long axis perpendicular to the surface on which the device is placed (Goodrich et al., Col 2, lines 40-62).

14. Claims 48, 49, 53, 59, 60, 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boys in view of Hall et al.

Regarding claims 48, 49, 53: Boys discloses kit for a light generating device with a base (Fig. 6), comprising: a base (605) comprising: a first surface (top of 605a) comprising a connection structure (606, 560, 563), wherein a portion of the connection structure is pivotably movable relative to the first surface (pivots because 560 pivots, Figs. 7A,B); and a second surface (bottom of 605b) comprising a nonmechanical attachment structure (the flat surface of the bottom of 605b is the attachment structure); and the light generating device (506) removably mounted to the first surface via the connection structure (removable via 563 and 606).

Boys discloses the kit wherein the light generating device generates a laser beam (Col 14, lines 48-60)

Boys discloses the kit wherein the leveling device comprises a retractable pin (552) and an actuator for the pin (550) (Col 14, line 61-Col 15, line 7).

Boys does not disclose the kit comprising a volume of space wherein the base is positioned within the volume of space, and the light generating device is positioned within the volume of space so as to be unattached to the base.

Hall et al. discloses a kit (10) comprising a volume of space (11) wherein the base (12, 14) is positioned within the volume of space (Fig. 1), and the light generating device (12) is positioned within the volume of space so as to be unattached to the base (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Boys to comprise a volume of space, as taught by Hall et al., so that the light generating device and the base could easily be transported from one workspace to another without the possibility of losing or misplacing pieces of the kit.

Regarding claims 59, 60, 64: Boys discloses a kit for a leveling device with a base (Fig. 6), comprising: a base (605) comprising: a first surface (top of 605a) comprising a connection structure (606, 560, 563); and a second surface (bottom of 605b) comprising a nonmechanical attachment structure (the flat surface of the bottom of 605b is the attachment structure); and the leveling device (506) removably mounted to the first surface via the connection structure (removable via 563 and 606), wherein a portion of the connection structure is pivotably movable relative to the first surface (pivots because 560 pivots, Figs. 7A,B).

Boys discloses the kit wherein the leveling device comprises a retractable pin (552) and an actuator for the pin (550) (Col 14, line 61-Col 15, line 7).

Boys discloses the kit wherein the leveling device further comprises n automatic leveler selected from the group consisting of a pendulum, a cantilevered tilt mechanism, an electronic leveler (Col 5, lines 23-30, Col 10, lines 28-41), and a shaft held between journals.

Boys does not disclose the kit comprising a volume of space wherein the base is positioned within the volume of space, and the leveling device is positioned within the volume of space so as to be unattached to the base.

Hall et al. discloses a kit (10) comprising a volume of space (11) wherein the base (12, 14) is positioned within the volume of space (Fig. 1), and the leveling device (12) is positioned within the volume of space so as to be unattached to the base (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Boys to comprise a volume of space, as taught by Hall et al., so that the leveling device and the base could easily be transported from one workspace to another without the possibility of losing or misplacing pieces of the kit.

15. Claims 48, 49, 56, 59, 62, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Hall et al.

Regarding claims 48, 49, 56: Green discloses a kit for a light generating device with a base (12), comprising: a base comprising: a first surface (at 12 where 44 is attached) that comprises a connection structure (44), wherein a portion of the connection structure is pivotably movable relative to the first surface (Figs. 7 and 8); and a second structure (16) comprising a nonmechanical attachment structure (18); and a light generating device (38), wherein the connection structure can be used to removably mount the light generating device to the first surface (removably mounted by 54).

Green discloses the kit wherein the light generating device generates a laser beam (36).

Green discloses the kit wherein the light generating device comprises a latch that engages the connection surface (Figs. 7 and 8, Col 4, lines 3-31, laser module is fixedly mounted within 44, Figs. 7 and 8 show a portion of 38 (not labeled) which catches with 44).

Green does not disclose the kit comprising a volume of space wherein the base is positioned within the volume of space, and the light generating device is positioned within the volume of space so as to be unattached to the base.

Hall et al. discloses a kit (10) comprising a volume of space (11) wherein the base (12, 14) is positioned within the volume of space (Fig. 1), and the light generating device (12) is positioned within the volume of space so as to be unattached to the base (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Green to comprise a volume of space, as taught by Hall et al., so that the light generating device and the base could easily be transported from one workspace to another without the possibility of losing or misplacing pieces of the kit.

Regarding claims 59, 62, 63: Green discloses a kit for a leveling device with a base (12), comprising: a base comprising: a first surface (at 12 where 44 is attached) that comprises a connection structure (44), wherein a portion of the connection structure is pivotably movable

relative to the first surface (Figs. 7 and 8); and a second structure (16) comprising a nonmechanical attachment structure (18); and a leveling device (38), wherein the connection structure can be used to removably mount the leveling device to the first surface (removably mounted by 54).

Green discloses the kit wherein the connection structure is selected from the group consisting of a magnet, a magnetically attractive material, a hook fastener, a loop fastener, a tab, a slot (the slot or space formed in body 12 where 44 is inserted), a flat surface, and a latch (54).

Green discloses the kit wherein the leveling device comprises a latch that engages the connection surface (Figs. 7 and 8, Col 4, lines 3-31, laser module is fixedly mounted within 44, Figs. 7 and 8 show a portion of 38 (not labeled) which catches with 44).

Green does not disclose the kit comprising a volume of space wherein the base is positioned within the volume of space, and the light generating device is positioned within the volume of space so as to be unattached to the base.

Hall et al. discloses a kit (10) comprising a volume of space (11) wherein the base (12, 14) is positioned within the volume of space (Fig. 1), and the light generating device (12) is positioned within the volume of space so as to be unattached to the base (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Green to comprise a volume of space, as taught by Hall et al., so that the light generating device and the base could easily be transported from one workspace to another without the possibility of losing or misplacing pieces of the kit.

16. Claims 54 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green and Hall et al. as applied to claims 48, 49, 56, 59, 62, 63 above, and further in view of Schwandt.

Green and Hall et al. disclose the kit as described above in paragraph 15 and wherein the nonmechanical attachment structure is a magnet (18).

Green and Hall et al. do not disclose the kit wherein the nonmechanical attachment structure is an adhesive.

Schwandt discloses a base (28) comprising a second surface (32b) comprising a nonmechanical attachment structure, wherein the nonmechanical attachment structure is a magnet (54) or an adhesive (63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the kit of Green and Hall et al. to have the nonmechanical attachment structure be an adhesive, as taught by Schwandt, since Schwandt teaches that magnets and adhesives are equivalent nonmechanical attachment structures.

Response to Arguments

17. Applicant's arguments with respect to claims 1-64 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
December 8, 2005

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